

Chapter 11-2 Wastewater Utility

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Boulder Revised Code, 1981

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Adopted by Ordinance No. 4672. Derived from Ordinance Nos. 2444, 2693, 2780, 2872, 2944, 3083, 3192, 3422, 3446, 3456, 3478, 3560, 3601, 3672, 3725, 3745, 3761, 3930, 4027, 4031, 4119, 4123, 4335, 4351, 4365, 4366, 4412, 4584, 4664.

11-2-1 Legislative Intent.

(a) The purpose of this chapter is to define the wastewater utility of the city, to set forth the responsibility of sanitary sewer users, and to promote the public health, safety and welfare by adopting a system of plant investment fees that insures that each new user of city sanitary sewer services pays its proportionate share of the current replacement cost of wastewater system facilities. The plant investment fees in this chapter reflect varying service requirements of residential users and are designed to encourage the construction of moderate income housing.

(b) Utilities should be extended outside the city limits of Boulder consistent with the Boulder Valley Comprehensive Plan and the city charter requirements. The comprehensive plan projects extension of urban services, including utilities, in an orderly fashion in order to insure the most efficient and cost effective service to the existing utility system.

(c) The city council finds and determines that the city has historically provided and will continue to provide wastewater services by means of an enterprise, as that term is defined by Colorado law. The city council further declares its intent that the city's wastewater utility enterprise be operated and maintained so as to exclude its activities from the application of Article X, Section 20 of the Colorado Constitution.

Ordinance No. 5601 (1993).

11-2-2 Sanitary Sewer Customer Agrees to the Rules of the Wastewater Utility, Penalty for Breach.

(a) No person may be served by the wastewater utility unless such person agrees to abide by all provisions of this code, all applicable ordinances of the city, and all the rules and regulations of the city pertaining to the wastewater utility.

(b) If any wastewater utility customer fails to pay the wastewater service charges when due or fails to comply with any provision of this code, any applicable ordinance of the city, or regulations issued thereunder, the city may discontinue wastewater water service until the customer has paid the required charges or is in compliance with all requirements of this code, any ordinance of the city, or regulations issued thereunder. But the wastewater utility may not discontinue such service until it has afforded the customer an opportunity for hearing under the procedures prescribed by Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981.

11-2-3 Composition of the Wastewater Utility.

All sanitary sewers, sewage treatment works, equipment, materials, and supplies used by the city to collect and treat sewage from property in the city and property served by city sewers outside the city constitute the "wastewater utility."

11-2-4 Records and Reports.

The city manager shall keep such records and prepare such reports concerning the wastewater utility as the manager deems appropriate. The manager shall advise the city council of the operations, financial conditions, and future needs of the wastewater utility.

11-2-5 Damage to Property and Equipment of Wastewater Utility.

No person shall in any way damage any property, equipment, or appliance constituting or being a part of the wastewater utility.

11-2-6 Trespass and Interference with Wastewater Utility Prohibited.

No person shall trespass upon the property of the wastewater utility, tap a sanitary sewer main, make any connections therewith, or in any manner interfere with the wastewater utility or the property, equipment, mains, manholes, or any other appliances of the wastewater utility.

11-2-7 Injurious Deposit into Wastewater Utility Prohibited.

No person shall deposit in any part of the wastewater utility any substance or material that will in any manner injure or obstruct it or any material or substance that would tend to contaminate or interfere with the bacterial action in the treatment process.

11-2-8 When Connections with Sanitary Sewer Mains Required.

(a) All property located within the city or annexed to the city on which there is located a structure or dwelling that requires the use of a waste disposal system shall be connected with the wastewater utility of the city. The owner of such property, the owner's agent or another person having charge of or receiving the rent, or a tenant of the property shall pay all applicable fees and charges when the city manager notifies such person that connection is required. The manager shall serve such notice upon the owner of such property by registered mail to address of the owner on the records of the Boulder County Assessor and upon the person in possession of such property by mail to the property address. Connection to the wastewater utility is immediately required only where there exists a city sanitary sewer main abutting or adjacent to any portion of the boundaries of the property upon which there is an existing structure or a proposed structure requiring the use of a waste disposal system or where there is an existing waste disposal system located on the property that is not operating in a manner satisfactory to the Boulder County Health Department. The owner of such an unsatisfactory system may not replace or repair it if there is an existing city sanitary sewer main abutting or adjacent to the property but shall connect to the city sanitary sewer main.

(b) No person shall make any connection to or uncover or open any city sanitary sewer main that forms a part of the wastewater utility of the city except pursuant to and in accordance with a permit prescribed by this chapter. Only city sewer utility personnel shall install a tap on such a main after it has been accepted by the city manager as part of the wastewater utility.

Ordinance No. 5425 (1991).

11-2-9 Permit to Make Sanitary Sewer Connection¹.

(a) Any person desiring to make a connection to the wastewater utility shall apply to the city manager for one of the following permits, on forms provided by the manager, pay the fee prescribed by Section 4-20-27, "Wastewater Permit Fees," B.R.C. 1981, and meet the conditions prescribed:

(1) A permit to construct a sanitary sewer service line stub from a wastewater utility main to the property line, only required if the stub is not installed at the time of construction of the main;

(2) A permit to connect to the wastewater utility to dispose of wastes from normal municipal purposes². At the time this permit is granted, the applicant shall pay all costs and fees, including those for tap installation as prescribed in Section 4-20-27, "Wastewater Permit Fees," B.R.C. 1981, inspection of service line installation as provided in Section 4-20-27, "Wastewater Permit Fees," B.R.C. 1981, plant investment fees on existing structures, prescribed by Section 4-20-29, "Wastewater Plant Investment Fees," B.R.C. 1981; main assessments, as prescribed by Section 11-2-27, "Reimbursement of Costs for Sanitary Sewer Main Extension," B.R.C. 1981; and any other outstanding assessments.

(3) A permit to enlarge the size of the existing sanitary sewer service line because of increased demand upon the wastewater utility due to the addition of fixtures; an applicant for this permit shall pay the fees and costs set forth in paragraph (2) of this subsection;

(4) A permit to renew any of the sewer service lines provided for in this subsection.

(b) The city manager shall sign all permits issued under this title and shall include the name of the person to whom the permit is issued, the date of the permit, the address and legal description of the premises served by the sanitary sewer service, the size of the service line, and the fees and costs paid for the permit.

(c) The city shall not issue a permit for new service to a property previously receiving service until the property owner has arranged to have the existing service plugged within five feet of the property line.

¹See Section 11-2-17, "Extending Sanitary Sewer Service Line From One Property to Another," B.R.C. 1981.

²See Chapter 1-3, "Industrial and Prohibited Wastewater Discharges," B.R.C. 1981.

11-2-10 Out-of-City Sewer Service.

(a) Any person outside of the city limits desiring to make a connection to the wastewater utility shall apply to the city manager for a revocable out-of-city wastewater permit, which may be issued after approval of the city manager if the

manager finds that the application meets the following conditions:

- (1)The property is located within Area II of the Boulder Valley Comprehensive Plan, unless the facility to be served is a publicly owned facility that because of its nature is most appropriately located outside Area II and because of the general public interest should be served by wastewater service;
 - (2)There is no main extension involved for such service beyond one hundred feet;
 - (3)The city planning department has determined that this proposal does not constitute new urban development and is consistent with the Comprehensive Plan;
 - (4)The city has referred the application to the Boulder County Planning Department under the referral provisions of the Comprehensive Plan;
 - (5)The service is to be extended to a structure, which contains a legal use, that existed on the effective date of this chapter or to a platted single-family lot existing on the effective date of this chapter;
 - (6)The property is located below the "Blue Line"; and
 - (7)The property owner agrees in an agreement running with the land to annex to the city as soon as the property is eligible for annexation.
- (b)If the city manager issues a permit under this section, it will become effective thirty days after the date of its issuance unless the city council schedules a hearing thereon. After issuing the permit, the manager shall promptly notify the council of the permit and within ten days of the date of issuance shall publish notice thereof in a newspaper of general circulation in the city. Before the effective date of the permit, the council may schedule a de novo hearing thereon to determine whether the application meets the standards prescribed by this section.
- (c)If the city manager denies the permit, the applicant may, within sixty days of the date of the denial, appeal the denial to the city council, which shall schedule a hearing thereon to determine whether the application meets the standards prescribed by this section.
- (d)Nothing in this section shall be deemed to invalidate out-of-city wastewater permits existing at the effective date of this chapter, including those on property currently under development.
- (e)If a permit to connect a sewer service line to the wastewater utility to serve property situated outside the corporate limits of the city is approved under this section the applicant shall agree:
- (1)To use the service only for the qualifying use and to make no enlargement thereto without obtaining a permit therefor under this section and Section 11-2-9, "Permit to make Sanitary Sewer Connection," B.R.C. 1981;
 - (2)To make the connection at such point or points as the city manager prescribes;
 - (3)To pay all of the costs, if any, of extending a sanitary sewer main under the terms of a main extension agreement¹ in accordance with the plans and specifications as approved by the city manager;
 - (4)Prior to connecting to the wastewater utility, to pay the fees prescribed in this chapter, the estimated cost of connecting the service, and the costs for extending the main to serve the applicant's property or existing main assessments;
 - (5)To pay the outside city rates until such time as the property is annexed;
 - (6)To install and maintain the devices necessary to measure the use of the services for the purposes of assessing the charges therefor, if the city manager finds it is necessary;
 - (7)To furnish a current title memorandum showing that title to the property is vested in the applicant's name or to reimburse the city for obtaining such title memorandum and to pay any recording costs incurred;
 - (8)To sign an agreement evidencing an understanding that these wastewater services are provided under a revocable permit, the rates for the said service may be increased and if they are, the applicant will pay them, and that the services may be discontinued if the applicant fails to perform as required or if the needs of city residents for such services require;
 - (f)If a permittee under this section does not connect to the wastewater utility within six months after the issuance of the out-of-city wastewater permit, the permit expires.

1See Section 11-2-26, "Agreement to Extend Sanitary Sewer Mains," B.R.C. 1981.

11-2-11 No Sanitary Sewer Connection Permit Issued Before Mains Accepted.

The city manager may not issue permits to connect new wastewater utility customers to newly constructed wastewater mains until the manager has determined that all such mains and appurtenances thereto have been constructed in accordance with the engineering plans therefor approved by the city and the standards prescribed by the City of Boulder Design and Construction Standards and until the manager has issued a preliminary construction acceptance for the mains.

11-2-12 Change of Sanitary Sewer Use Outside City Limits Prohibited.

Outside of the corporate limits of the city, no person shall alter, change, enlarge, or extend in any manner whatsoever the use for which the connection was made to the wastewater utility as of the date of connection or the date of issuance of the revocable permit, whichever is later, without a permit under this chapter.

11-2-13 Taps or Connections to Sanitary Sewer Mains.

(a) No person not authorized by the city manager shall tap or connect to any part of the wastewater utility.

(b) No person shall fail to make authorized taps or connections to the wastewater utility in accordance with the terms and conditions of the permit issued therefor.

(c) No person requesting or required to make taps or connections to the wastewater utility shall fail to pay the costs for such taps or connections.

11-2-14 Sanitary Sewer Service Lines.

(a) No person other than a contractor in the public right-of-way licensed under Chapter 4-6, "Contractor in the Public Right-of-Way License," B.R.C. 1981, or a person authorized by the city manager, shall install a sanitary sewer service line.

(b) No person shall install a sanitary sewer service line without first obtaining written permission from the city and unless service lines are made from materials prescribed by and installed in accordance with the City of Boulder Design and Construction Standards.

(c) No person other than sanitary sewer utility personnel or licensed contractors working under their direction shall install sanitary sewer service lines in public streets, alleys, or easements after the date of preliminary construction acceptance.

(d) The owner of any property who desires to disconnect from the wastewater utility may do so by requesting that the city plug the service line at the property line. The city shall not resume sanitary sewer service until all permits have been issued and all fees paid.

(e) All service lines shall be installed in accordance with the City of Boulder Design and Construction Standards.

11-2-15 Excavation and Backfilling Sanitary Sewer Service Lines.

(a) No person except an employee of the city or a person licensed as a contractor in the public right-of-way under Chapter 4-6, "Contractor in the Public Right-of-Way License," B.R.C. 1981, shall excavate in public streets or alleys. Such persons shall obtain a permit from the city manager and comply with all applicable provisions of this code, other ordinances of the city and the "Work Area Traffic Control and Safety Handbook," City of Boulder Department of Public Works, July 1981.

(b) No person shall backfill any trenches under city streets and sidewalks except in accordance with the City of Boulder Design and Construction Standards.

11-2-16 Sanitary Sewer Service Line to be Installed before Street or Alley Paving.

(a) Before the city paves or overlays any street or alley containing a sanitary sewer main, the wastewater utility shall, at the expense of the abutting property owner, install service line stubs between the city sanitary sewer main and the property line for all vacant property abutting the street or alley in a size the city manager determines to be necessary to serve the property when fully developed.

(b) Whenever the council authorizes paving a street or alley under the provisions of Chapter 8-1, "Local Improvements," B.R.C. 1981, it may order the owners of abutting properties to connect their premises with the

sanitary sewer mains or with any other utility in the street or alley abutting their premises. If such property owner fails or refuses to make such connection for twenty days after such order, the city manager may cause the connections to be made under such conditions as the manager prescribes and shall charge the entire cost of such connection against the property with which the connection is made. Such cost is a lien upon the property enforceable under the procedures prescribed by Sections 11-1-47, "Water Charges are Lien on Property and Liability of Owner" and 11-1-54, "Certification of Unpaid Charges to County Treasurer," B.R.C. 1981.

11-2-17 Extending Sanitary Sewer Service Line from One Property to Another.

Each property shall be served by its own service line, and no person shall make a connection with the wastewater utility by extending the service line from one property to another property. If service lines have been so extended from one property to another property, persons may continue to use such extension only until sanitary sewer mains are laid that abut such other property, at which time the other property shall be connected to the sanitary sewer main at the expense of the owner of such other property served by such extension, and such extended service line shall be disconnected and plugged at the owner's expense.

11-2-18 Building Permit Issuance.

No building permit or wastewater utility connection permit may be issued until all water and wastewater utility requirements have been met.

11-2-19 Duty to Maintain Service Lines and Fixtures.

(a) No owner of any property connecting to the wastewater utility shall fail to maintain the service line from the city sanitary sewer main to the structure being served or to keep the line in good condition at the owner's expense. No owner of such property shall fail to keep all pipes, fixtures, and appliances on the property tight and in good working order so as to prevent unnecessary discharge of water into the wastewater utility.

(b) If a property owner or an agent thereof requests that the wastewater utility perform work on a sanitary sewer service line in the right-of-way, the utility shall perform such work only at the owner's expense.

11-2-20 Permit Required for Changing or Increasing Fixtures¹.

No plumber or wastewater utility system user shall install or replace any plumbing fixture discharging into the wastewater utility without first obtaining a plumbing permit therefor that states the number and character of each fixture, appliance, or apparatus to be installed or replaced.

¹See Section 11-2-9, "Permit to Make Sanitary Sewer Connection," B.R.C. 1981.

11-2-21 Use of Sanitary Sewer by Other than Wastewater Utility Customers.

No person using the wastewater utility under this chapter shall permit any other person to use the sanitary sewer on such first person's property.

11-2-22 Connection of Sanitary Sewer with Storm Drains, Downspouts, Steam Exhausts Prohibited.

No person shall connect any storm water drains, downspouts, subsurface drainage systems, steam exhausts, or blow off from a steam boiler to the sanitary sewer system except as provided by special agreement pursuant to Section 11-3-12, "Special Agreements and Contracts," B.R.C. 1981.

Ordinance No. 5397 (1991).

11-2-23 Location of Sanitary Sewer Mains.

All sanitary sewer mains shall be installed only in the dedicated public streets or alleys or in easements that grant to the city rights that are at least equal to rights it would enjoy in the dedicated streets or alleys.

11-2-24 Size of Sanitary Sewer Mains.

The city manager shall determine the size of sanitary sewer mains required to serve any part of the city or any area outside the city that is served by the wastewater utility in accordance with the master plan of the wastewater utility. No main less than eight inches in diameter shall be placed in the wastewater utility system unless specifically authorized by the manager. Extensions for Sanitary Sewer Mains.

11-2-25 Extensions for Sanitary Sewer Mains.

(a) All sanitary sewer main extensions shall be constructed to the farthest point of the property to be served thereby unless additional development of adjacent property is not contemplated within five years under the Boulder Valley Comprehensive Plan, in which case the property owner shall reserve an easement for a future main extension.

(b) All on-site sanitary sewer mains required to serve a development on a platted subdivision shall be installed and paid for by the developer or subdivider.

(c) All off-site and perimeter sanitary sewer mains required to serve a development or a platted subdivision shall be installed and paid for by the developer or subdivider, who may be reimbursed for all or part of the cost as prescribed by Section 11-2-27, "Reimbursement of Costs for Sanitary Sewer Main Extension," B.R.C. 1981.

11-2-26 Agreement to Extend Sanitary Sewer Mains.

(a) Prior to the approval of plans for the extension of any sanitary sewer main that is not entirely within a single development or platted subdivision and for which the developer or subdivider expects to receive reimbursement for part or all of the costs of the main extension, the developer or subdivider shall enter into a "main extension agreement" with the city, which contains the legal description of the property to be served, a description of the main extension, the name of the developer or subdivider of the property, the terms of the reimbursement to the developer or subdivider, the time period for reimbursement to the developer or subdivider, and an agreement by the developer or subdivider to provide to the city, within sixty days of the date of preliminary construction acceptance by the city, its costs for such work and to provide to the city a current address during the term of the agreement.

(b) If a developer or subdivider fails to comply with the main extension agreement, such person forfeits any right to reimbursement under Section 11-2-27, "Reimbursement of Costs for Sanitary Sewer Main Extension," B.R.C. 1981.

11-2-27 Reimbursement of Costs for Sanitary Sewer Main Extension.

(a) Developers or subdividers who have paid the costs of a sanitary sewer main extension and have entered into a "main extension agreement" with the city may be reimbursed part or all of the costs as provided in this section.

(1) At the time of annexation, subdivision, redevelopment, building permit issuance, or connection, whichever occurs first, the city manager shall collect a charge per adjusted front foot based upon the original construction cost and shall reimburse the original developer or subdivider for its original construction costs, to the extent of the collection so made.

(2) In no event shall the actual amount so paid to the developer or subdivider by the city exceed the total original cost of the sanitary sewer main extension. After the expiration of the period of reimbursement prescribed by subsection (c) of this section, the city shall retain any such monies so collected.

(3) If the developer or subdivider fails to supply its construction costs to the city within sixty days of preliminary construction acceptance of the sanitary sewer main, the city manager may estimate the costs of such extension for purposes of charging persons who thereafter connect to the main. The city shall retain any such monies so collected.

(b) When mains larger than twelve inches in diameter are required by the city and are determined not to be required to serve the demands of the property owner or subdivision benefited thereby, the property owner or subdivider benefited shall enter into a main extension agreement with the city whereby the city agrees to pay the difference in construction costs between those of the main constructed and those of a twelve inch main, based on their respective unit costs.

(c) The term for which the developer or subdivider is entitled to reimbursement under the "main extension agreement" entered into between the developer or subdivider and the city is ten years from the date of the execution of the contract or until the total original construction cost has been reimbursed, whichever occurs first.

(d) At the time of annexation, subdivision, redevelopment, building permit issuance, or connection to the main, whichever occurs first, the city manager shall collect a charge per front foot based upon the original construction cost.

(e) Property abutting any existing sanitary sewer main, for which original construction costs cannot be determined and which has not been assessed or charged for its proportionate share of the cost of the construction of such sanitary sewer main, shall pay to the city prior to annexation, subdivision, redevelopment, building permit issuance, or connection to the main, whichever occurs first, a charge based upon the estimated original construction cost of the existing main, up to and including a twelve inch diameter system, and the adjusted front footage of the property to be served as determined by the city manager.

Ordinance No. 5526 (1992).

11-2-28 Pumping Stations.

When pumping stations are required, the cost of their construction is the responsibility of the owner of the property served thereby. If it appears likely that a pump station may serve more than one platted subdivision, the city may require a larger capacity than that necessary to serve the initial development. Where such larger capacity is required, the wastewater utility shall pay the additional cost and thereafter collect it from other property owners or subdividers connecting to lines served by the pump station before making any connections.

11-2-29 Force Mains.

Force mains required to serve an area not otherwise able to enter the city wastewater utility system shall be constructed at the expense of the owners of the property to be served thereby.

11-2-30 Preservation of Gravity System.

If pumping stations and force mains are required, the wastewater utility system shall be designed to permit an eventual connection into a gravity system with a minimum of expense. Where practicable, property owners shall provide easements and construct lines to tie into the gravity system. Where the city manager deems necessary, the manager may require deposits from the property owners requiring said force system to insure the eventual construction of gravity lines.

11-2-31 Wastewater User Charges.

(a)Charges for sewer utility service consist of a monthly service charge that varies with water meter size and a quantity charge that varies with strength of waste and quantity of waste discharged into the sanitary sewer system, as prescribed by Section 4-20-28, "Monthly Wastewater User Charges," B.R.C. 1981.

(b)The wastewater utility shall review the total annual cost of operation and maintenance as well as each customer class's estimated contribution no less often than every two years and revise the charges as necessary to assure equity of the service charge system established herein and assure that sufficient funds are obtained adequately to operate and maintain the sanitary sewers and wastewater treatment works. When ownership of a property is transferred, the established customer class average winter consumption will be used to calculate wastewater charges, until the next average winter consumption calculation period.

(c)The city will notify each customer at least annually as part of a regular bill of the rate and that portion of the user charges that are attributable to sanitary sewer and wastewater treatment services. Failure to so notify a customer shall not constitute a waiver of any fee or charge imposed by this chapter.

(d)For use of the wastewater utility of the city by the Boulder Valley School District No. RE 2 or by properties that are located within the boundaries of the former Boulder Valley Water and Sanitation District, the inside city sewer service rates apply.

(e)Sewer charges shall be included on the utility bill. Failure to so bill a wastewater user shall not constitute a waiver of any fee or charge imposed by this chapter.

(f)All charges for sewer services prescribed by this chapter are due and payable within ten days after the date of the sewer bill.

Ordinance Nos. 5068 (1987); 5106 (1988); 5526 (1992).

11-2-32 Sewer Service Charges are Lien on Property.

(a)The wastewater service charges prescribed by this chapter shall be paid with the water bill, and the city shall not accept payment of the water bill unless the payment for wastewater services are included therewith.

(b)No person shall use water from the water utility if the wastewater service charges provided for by this chapter have not been paid.

(c)The provisions of Section 11-1-47, "Water Charges are Lien on Property and Liability of Owner," B.R.C. 1981, establishing liens on property for water charges apply to this chapter and establish liens on property for wastewater charges.

Ordinance No. 4879 (1984).

11-2-33 Wastewater Plant Investment Fee.

(a) Any applicant desiring to connect to the wastewater utility of the city shall pay to the city a wastewater plant investment fee pursuant to the schedule of fees prescribed by Section 4-20-29, "Wastewater Plant Investment Fees," B.R.C. 1981, in addition to all other charges relating to sanitary sewer service elsewhere described in this chapter.

(1) Applicants desiring to connect to the wastewater utility of the city for a structure proposed to be built within the city limits shall pay such fee prior to the scheduling of final building inspection.

(2) Applicants desiring to connect to the wastewater utility of the city for an existing structure within the city limits or any structure outside the city limits, whether existing or proposed, shall pay such fee prior to the time of issuance of a wastewater utility connection permit.

(3) Applicants desiring to change or enlarge the use of a sanitary sewer main by an existing structure that requires an additional plant investment fee shall pay such fee prior to issuance of the building permit.

(b) For purposes of this section, residential uses include without limitation, single-unit and multi-unit dwellings, limited living units, mobile home dwellings, townhouses, and rooming units. For purposes of this section, non-residential uses include without limitation, business, commercial, industrial, and institutional connections and recreational facilities appurtenant to residential developments.

(c) Developments with combined residential and non-residential uses in the same structure shall pay a plant investment fee based on the individual uses within the structure. The other than residential portion of the development shall be assessed in accordance with the "other than residential" fee schedule. The residential portion shall be assessed in accordance with the residential fee schedule.

(d) The plant investment fee for each permanently affordable unit which is subject to concept review under Section 9-4-10, "Concept Review," B.R.C. 1981, and was reviewed by the planning board before September 16, 1999, the effective date of this ordinance, shall be set at the fee level in effect at the time of the final approval of the concept plan for the residential development, including such unit.

(e) Non-Residential developments designed to be sold and occupied in a manner similar to residential condominiums shall be assessed a plant investment fee based on the entire building pursuant to the schedule of fees for other than residential uses. Any increase resulting from the installation of additional plumbing fixtures in one of the privately owned units may require, an additional plant investment fee to be paid by the owner of the individual unit.

(f) All applicants except those connecting three-quarter inch meters for detached residential dwelling units shall provide all pertinent information that the city manager may require to determine the plant investment fee including without limitation, a set of plans certifying the number and type of plumbing fixtures signed by a certified professional engineer.

(g) No customer of the wastewater utility or a sanitary sewer district obtaining service under contract with the city shall make changes or additions to the property that would affect demand on the sanitary sewer system without first obtaining permission to make such changes and a new permit for the use of the sewer under Section 11-2-9, "Permit to Make Sanitary Sewer Connection," B.R.C. 1981, and paying the plant investment fee. The city manager shall credit such user an amount equal to the fee that would have been charged before the change or addition, but if the credit is less than the amount previously paid for a sanitary sewer plant investment fee, the amount paid shall be allowed as a credit. The credit shall be based upon documented historic water or sewage discharge data or other available, relevant data. But no credit shall be allowed for a plant investment fee collected from out-of-city customers that exceeds that charged to in-city customers. No refund shall be paid to any sanitary sewer customer who obtains permission to decrease the demand for service. No cash refunds shall be paid for allowable credit exceeding the new sewer plant investment fee. The credit prescribed by this subsection applies only to the property served by the existing sanitary sewer service line and only to sanitary sewer plant investment fees owed to the city and not to other utility fees or charges. Credit will not be allowed for service line stubs or for services not in use for a continuous period of five years or more. Prior to the expiration of the five years, the applicant may request an extension of time to receive a credit for sanitary sewer plant investment fees owed to the city. The city manager may grant such extensions based on a showing of good cause by the applicant.

(h) The city may look only to the owner and the owner's successors in interest of each premises, building, lot, house, or dwelling unit desiring wastewater service for the payment of the assessed sanitary sewer plant investment fee.

(i) All building permit applications or requests for sanitary sewer service received by the wastewater utility will be processed in compliance with the plant investment fee schedule prescribed by Section 4-20-29, "Wastewater Plant Investment Fees," B.R.C. 1981 in effect as of the date of submission.

(j)The city manager may have access at reasonable times to all premises of water utility users for purposes of counting and verifying the existence of fixtures to determine plant investment fees.

(k)Any applicant desiring to discharge wastewater into the wastewater utility, if such wastewater discharge (quantity or quality) is greater than that anticipated for the property and use, based upon land use zoning and approved utility master planning, shall enter into a special agreement with the city and shall pay a wastewater plant investment fee pursuant to Section 4-20-29, "Wastewater Plant Investment Fees," B.R.C. 1981.

Ordinance Nos. 5075 (1987); 5106 (1988); 5526 (1992); 5760 (1995); 5769 (1996); 5845 (1996); 6093 (1999).

11-2-34 Use of Fees.

The wastewater utility shall hold all monies received by the city as sanitary sewer plant investment fees pursuant to this chapter and make expenditures thereof only for the purpose of wastewater utility capital improvements, reconstruction or expansion of the wastewater utility, or other purposes related to the foregoing functions of the wastewater utility system of the city.

11-2-35 Certification of Unpaid Charges to County Treasurer.

If any person fails or refuses to pay when due any charge imposed under this chapter, the city manager may, in addition to taking other collection remedies, certify due and unpaid charges to the Boulder County Treasurer to be levied against the person's property for collection by the county in the same manner as delinquent general taxes upon such property is collected, as provided by Section 2-2-12, "City Manager May Certify Taxes, Charges, and Assessments to County Treasurer for Collection," B.R.C. 1981.

11-2-36 Wastewater Utility Enterprise.

In addition to any of the powers it may have by virtue of any of the applicable provisions of state law, the city charter, and this code, the wastewater utility enterprise shall have the power under this chapter:

(a)To acquire by gift, purchase, lease, or exercise of the right of eminent domain, to construct, to reconstruct, to improve, to better and to extend wastewater facilities, wholly within or wholly without the city or partially within and partially without the city, and to acquire in the name of the city by gift, purchase, or the exercise of the right of eminent domain lands, easements, and rights in land in connection therewith;

(b)To operate and maintain wastewater facilities for its or the city's own use and for the use of public and private consumers and users within and without the territorial boundaries of the city;

(c)To accept federal funds under any federal law in force to aid in financing the cost of engineering, architectural, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures, or other action preliminary to the construction of wastewater facilities;

(d)To accept federal funds under any federal law in force for the construction of necessary wastewater facilities;

(e)To enter into joint operating agreements, contracts, or arrangements with consumers concerning wastewater facilities, whether acquired or constructed by the wastewater utility enterprise or the consumer, and to accept grants and contributions from consumers for the construction of wastewater facilities;

(f)To prescribe, revise, and collect in advance or otherwise, from any consumer or any owner or occupant of any real property connected therewith or receiving service therefrom, rates, fees, tolls, and charges or any combination thereof for the services furnished by, or the direct or indirect connection with, or the use of or any commodity from such wastewater facilities; and in anticipation of the collection of revenues of such facilities, to issue revenue bonds to finance in whole or in part the cost of acquisition, construction, reconstruction, improvement, betterment, or extension of such facilities; and to issue temporary bonds until permanent bonds and any coupons appertaining thereto have been printed and exchanged for the temporary bonds;

(g)To pledge to the punctual payment of said bonds and interest thereon all or any part of the revenues of the wastewater facilities or of water facilities under Chapter 11-1, "Water Utility," B.R.C. 1981, including the revenues of improvements, betterments or extensions thereto thereafter constructed or acquired, as well as the revenues from existing wastewater or water facilities;

(h)To enter into and perform contracts and agreements with other governmental entities and utility enterprises for or concerning the planning, construction, lease, or other acquisition and the financing of wastewater facilities and the maintenance and operation thereof;

(i) To make all contracts, execute all instruments, and do all things necessary or convenient in the exercise of the powers granted in this section or elsewhere in state law, the city charter, or this code, or in the performance of its covenants or duties, or in order to secure the payment of its bonds if no encumbrance, mortgage, or other pledge of property, excluding any pledged revenues, of the wastewater utility enterprise or city is recreated thereby, and if no property, other than money, of the wastewater utility enterprise or city is liable to be forfeited or taken in payment of said bonds, and if no debt on the credit of the utility enterprise or city is thereby incurred in any manner for any purpose; and

(j) To issue refunding bonds pursuant to this code or other applicable law to refund, pay, or discharge all or any part of its outstanding revenue bonds issued under this article or under any other law, including any interest thereon in arrears or about to become due or yield reduction payments required to be made to the federal government to maintain the tax-exemption of interest on the refunding or refunded bonds, or for the purpose of reducing interest costs, affecting a change in any particular year or years in the principal and interest payable thereon or in the related utility rates to be charged, affecting other economies, or modifying or eliminating restrictive contractual limitations appertaining to the issuance of additional bonds or to any municipal water and wastewater facilities.

Ordinance No. 5601 (1993).

11-2-37 Revenue Bonds.

(a) In accordance with and through the provisions of this section, the wastewater utility enterprise, through its governing body, is authorized to issue bonds or other obligations payable solely from the revenues derived or to be derived from the functions, services, benefits or facilities of such enterprise or from any other available funds of such enterprise. Such bonds or other obligations shall be authorized by ordinance, adopted by the city council in the same manner as other ordinances of the city. Such bonds or other obligations may be issued without voter approval provided that, during the fiscal year of the city preceding the year in which the bonds or other obligations are authorized, the wastewater utility enterprise received under ten percent of its annual revenue in grants or, during the current fiscal year of the city, it is reasonably anticipated that such enterprise will receive under ten percent of its revenue in grants. Nothing in this section shall be construed so as to require voter approval where such approval is not otherwise required by the constitution and laws of the state or the charter of the city including, without limitation, refunding bonds.

(b) The terms, conditions, and details of said bonds, or other obligations, and the procedures related thereto shall be set forth in the ordinance authorizing said bonds or other obligations and shall, as nearly as may be practicable, be substantially the same as those provided in Part 4 of Article 35 of Title 31, C.R.S., relating to water and sewer revenue bonds; except that the purpose for which the same be issued shall not be so limited and except that said bonds, or other obligations must be sold at public sale in accordance with the provisions of the city charter. Notice of public sale shall comply with the requirements of the city and need not comply with Paragraph 31-35-404(2)(c), C.R.S. Each bond, note, or other obligation issued under this section shall recite in substance that said bond, note, or other obligation, including the interest thereon, is payable from the revenues and other available funds of the wastewater utility enterprise and the water utility enterprise pledged for the payment thereof. Notwithstanding any other provision of law to the contrary, such bonds or other obligations may be issued to mature at such times and shall bear interest at such rates as shall be determined by the city council. Refunding bonds of the wastewater utility enterprise need not comply with Section 31-35-412, C.R.S., but shall be issued as provided in Part 1 of Article 56 of Title 11, C.R.S. or any other applicable law. The powers provided in this section to issue bonds, or other obligations are in addition and supplemental to, and not in substitution for, the powers conferred by any other law, and the powers provided in this section shall not modify, limit, or affect the powers conferred by any other law either directly or indirectly. Bonds, notes, or other obligations may be issued pursuant to this section without regard to the provisions of any other law. Insofar as the provisions of this section are inconsistent with the provisions of any other law, the provisions of this section shall control with regard to any bonds lawfully issued pursuant to this section.

(c) Any pledge of revenue or other funds of the wastewater utility enterprise shall be subject to any limitation on future pledges thereof contained in any ordinance of the governing body of the wastewater utility enterprise or of the city authorizing the issuance of any outstanding bonds or other obligations of the utility enterprise or the city payable from the same source or sources. Bonds or other obligations, separately issued by the city and the wastewater utility enterprise but secured by the same revenues or other funds shall be treated as having the same obligor and as being payable in whole or in part from the same source or sources.

Ordinance No. 5601 (1993).

11-2-38 Governing Body.

For all purposes under the city charter and this code, the governing body of the wastewater utility enterprise shall be the city council. The governing body shall be subject to all of the applicable laws, rules, and regulations pertaining to the city council. Whenever the city council is in session, the governing body shall also be deemed to be in session. It shall not be necessary for the governing body to meet separately from the regular and special meetings of the city council, nor shall it be necessary for the governing body to specifically announce or acknowledge that actions taken thereby are taken by the

governing body of the wastewater utility enterprise. The governing body may conduct its affairs in the same manner and subject to the same laws which apply to the city council for the same or similar matters.

Ordinance No. 5601 (1993).

11-2-39 Maintenance of Enterprise Status.

The wastewater utility enterprise shall at all times and in all ways conduct its affairs so as to continue to qualify as a "water activity enterprise" within the meaning of Section 37-45.1-102, C.R.S., and as an "enterprise" within the meaning of Article X, Section 20 of the Colorado Constitution. Specifically, but not by way of limitation, the wastewater utility enterprise is not authorized and shall not receive ten percent or more of its annual revenue in grants.

Ordinance No. 5601 (1993).

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